

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	No. 06-4073-01-CR-C-SOW
)	
ROBERT JOSEPH SMART,)	
)	
Defendant.)	

ORDER

Before this Court is the Report and Recommendation of United States Magistrate William A. Knox (Doc. # 25) regarding defendant Robert Joseph Smart. Upon motion of the defendant Robert Joseph Smart (SEALED Doc. # 11) and order of the court, a psychiatric/psychological examination was conducted pursuant to 18 U.S.C. § 4241 and 4242. Defendant was examined by Randall Rattan, Ph.D., a forensic psychologist, who filed a report. During a hearing before United States Magistrate Judge William A. Knox, Dr. Rattan testified by telephone, was subject to cross-examination and his evaluation was introduced into evidence. Dr. Rattan concluded, based on his evaluation of the defendant, a review of prior psychological evaluations by Missouri officials and interviews with the defendant, that defendant Robert Smart was suffering from a mental disease or defect (psychotic disorder, not otherwise specified) which renders him incompetent to understand the proceedings against him and assist in his defense. Dr. Rattan was also of the opinion that the defendant can probably be restored to competence by appropriate psychiatric care, perhaps without the need for medication. No additional evidence was introduced.

The Report and Recommendation of the Magistrate in this case is both thorough and

well-reasoned. This Court agrees with this recommendation and sees no reason to comment further. Accordingly, it is hereby

ORDERED that defendant Robert Joseph Smart be found, by a preponderance of the evidence, to be presently suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense. It is further

ORDERED that the defendant, Robert Joseph Smart, be committed to the custody of the Attorney General, pursuant to 18 U.S.C. § 4241(d), for a reasonable period of time, not to exceed 120 days, to attempt to restore the defendant to competence. It is further

ORDERED that, prior to the expiration of the 120-day period, the Court shall be advised whether there is a substantial probability that in the foreseeable future the defendant will attain capacity to permit the trial to proceed and whether commitment is necessary for an additional reasonable period of time until

(a) his mental condition is so improved that trial may proceed, if the court finds that there is a substantial probability that within such additional period of time he will attain the capacity to permit the trial to proceed; or

(b) the pending charges against him are disposed of according to law;

whichever is earlier.

____/s/ Scott O. Wright_____
SCOTT O. WRIGHT
Senior United States District Judge

Dated: ____9/20/2007____